

EPA Official Record

Mail ID: OF55100072.9C10207C-ON86257D85.005331AE-85257D85.00534AC1

From: Bob Sussman

To: Maddox, Donald

Copy To: Jackson, Suzanne

Delivered Date: 11/03/2014 10:11 AM EST

Subject: EPA-HQ-2014-008306 - Batch 3

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 03/21/2012 10:13 AM
Subject: RE: A moment to talk?


I could speak between now and 1:00 if you are available. What number shall I use?

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Wednesday, March 21, 2012 09:01 AM Central Standard Time
To: Scott Roy
Cc: Donald Maddox
Subject: Re: A moment to talk?

Sorry Scott -- just seeing this. Happy to talk if you'd like to find some time today.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

 Scott Roy ---03/20/2012 06:04:40 PM---From: Scott Roy <sroy@rangeresources.com> To: Bob Sussman/DC/USEPA/US@EPA

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA

Date: 03/20/2012 06:04 PM
Subject: A moment to talk?

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Ray Walker <rwalker@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 03/23/2012 09:19 AM
Subject: Congrats!

Bob, just wanted to say a quick thanks and congrats! I look forward to getting everything finalized. Scott Roy is ready to go and help get things moving. Talk to ya soon!!!

Ray

office: (817) 870-2601
rwalker@rangeresources.com



Please consider the environment before printing this e-mail

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 03/30/2012 04:24 PM
Subject: Project Idea For Your Consideration

For the past 18 months Range has been working with URS on an air monitoring and modeling project. To date, Range has committed approximately \$600,000 to the effort as well as a great deal of technical consultation and data. My thought is that this project could serve as the nucleus for an expanded project with the EPA and perhaps could include PADEP. This project is intended to analyze an issue of critical importance to the industry and the nation and has the potential to be very impactful. In addition, it is consistent with the recommendations made by the DOE Panel last year. In the hope you might be interested in this sort of joint effort, I have asked URS to define an expanded project scope for our mutual consideration. I look forward to your thoughts on the matter.

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Jeanne Briskin/DC/USEPA/US
To: Bernadette Rappold/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Steven Chester/DC/USEPA/US@EPA
Date: 03/31/2012 09:56 PM
Subject: Re: RE: A moment to talk?

U.S. FOIA Exempt (b) (5)

U.S. FOIA Exempt (b) (5)

Jeanne

-----Scott Roy <sroy@rangeresources.com> wrote: -----

To: Jeanne Briskin/DC/USEPA/US@EPA

From: Scott Roy <sroy@rangeresources.com>

Date: 03/31/2012 09:24AM

Cc: Steven Chester/DC/USEPA/US@EPA, Bernadette Rappold/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA

Subject: RE: A moment to talk?

Jeanne,

Thank you for the rewrite. It does appear consistent with our conversation. As to duplicate blind samples referenced in paragraph #6 our rationale is as follows:

The splitsample is a sample split in two and tested independently to ascertain lab analysis precision whereas a duplicate sample is a second sample taken from the same source at the same time to ascertain sampling precision. A duplicate sample could also be split. The reference to blind provides a control for any potential bias. So we would like to have both referenced.

Regarding confidentiality, as we discussed the primary concern is related to proprietary interests of the content of mixture used by frac contractors. There may be proprietary interests beyond chemicals such as revealing lease hold, well production number on a per well basis, length of laterals which may be shared by Range with the EPA which we may deem proprietary/confidential at least for a limited period of time. I believe the access terms as you have revised provide for these considerations. Please confirm if you agree.

-----Original Message-----

From: Jeanne Briskin [Briskin.Jeanne@epamail.epa.gov]

Sent: Friday, March 30, 2012 04:23 PM Central Standard Time

To: Scott Roy

Cc: Steven Chester; Bernadette Rappold; Bob Sussman

Subject: RE: A moment to talk?

Dear Scott,

Attached is a revision to the proposed access arrangements based on our discussion earlier this week. I have proposed language that I believe is consistent with our conversation.

We hope to hear from you soon about the topic of blind samples. It will also be important that we confirm our common understanding of the term propriety information (see item #11).

One item that we did not discuss in our call is whether EPA will receive copies of Range's QAPPs, analyses and reports, as we are committing providing the same to Range. This topic did not arise during our call, as the issue is not associated with one of Range's original conditions. In the interest of having a full set of data and context, we believe it is useful and important that we both have the same information. So there is a proposed sentence added to the document along these lines.

Please let me know if you have any questions or concerns.

best,

Jeanne

(See attached file: Range revised access conditions 033012.doc)

Jeanne Briskin
Office of Science Policy
Office of Research and Development
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (8104R)
Washington, D.C. 20460
(202) 564-4583 - office
(202) 565-2911 - fax
briskin.jeanne@epa.gov

Address for Deliveries:
US EPA
Ronald Reagan Building --Room 51144
Washington DC 20004

■ Bob Sussman---03/29/2012 04:58:06 PM---Scott -- just left you a detailed voice mail. Hope I used the right number. In brief, I think we're

From: Bob Sussman/DC/USEPA/US
To: Scott Roy <sroy@rangeresources.com>
Cc: Jeanne Briskin/DC/USEPA/US@EPA, Steven Chester/DC/USEPA/US@EPA, Bernadette Rappold/DC/USEPA/US@EPA
Date: 03/29/2012 04:58 PM
Subject: RE: A moment to talk?

Scott -- just left you a detailed voice mail. Hope I used the right number.

In brief, I think we're on the right track after several conversations between counsel after our conversation.

We'll be sending you (probably from Jeanne Briskin) an e-mail on the ORD access issues. I suspect it will be tomorrow and we're all optimistic that we can reach closure quickly and get to work.

I'll be in Boston tomorrow but call my cell (202-716-0118) if we need to talk.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
(202-564-7397)
US Environmental Protection Agency

■ Scott Roy ---03/21/2012 10:13:16 AM---I could speak between now and 1:00 if you are available. What number shall I use? -----Original Mess

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 03/21/2012 10:13 AM
Subject: RE: A moment to talk?

I could speak between now and 1:00 if you are available. What number shall I use?

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Wednesday, March 21, 2012 09:01 AM Central Standard Time
To: Scott Roy
Cc: Donald Maddox
Subject: Re: A moment to talk?

Sorry Scott -- just seeing this. Happy to talk if you'd like to find some time today.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Scott Roy ---03/20/2012 06:04:40 PM---From: Scott Roy <sroy@rangeresources.com> To: Bob Sussman/DC/USEPA/US@EPA

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 03/20/2012 06:04 PM
Subject: A moment to talk?

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 04/26/2012 06:05 PM
Subject: RE: Chance to talk?

Absolutely. You say when.

Scott Roy

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Thursday, April 26, 2012 05:00 PM Central Standard Time
To: Scott Roy
Cc: Donald Maddox
Subject: Re: Chance to talk?

Scott -- happy to talk but am tied up. Let's find some time tomorrow.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator

(202-564-7397)
US Environmental Protection Agency

■ Scott Roy ---04/26/2012 04:56:05 PM---Scott Roy

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 04/26/2012 04:56 PM
Subject: Chance to talk?

Scott Roy

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 06/06/2012 06:07 PM
Subject: RE: Your message...

Say when.

Scott Roy

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Wednesday, June 06, 2012 05:06 PM Central Standard Time
To: Scott Roy
Cc: Donald Maddox
Subject: Re: Your message...

Scott -- hoping i can catch you for a few minutes tomorrow. Don -- when would be a good time for Scott to call?

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

■ Scott Roy ---05/21/2012 01:50:39 PM---We are definitely game. Please make the introduction with USGS.

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 05/21/2012 01:50 PM
Subject: Your message...

We are definitely game. Please make the introduction with USGS.

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 06/06/2012 08:14 PM
Subject: RE: Your message...

Sorry. Just saw this. At a dinner. Can we do tomorrow?

Scott Roy

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Wednesday, June 06, 2012 05:13 PM Central Standard Time
To: Scott Roy
Subject: RE: Your message...

now? 202-564-7397.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

 Scott Roy ---06/06/2012 06:07:58 PM---Say when. Scott Roy

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 06/06/2012 06:07 PM
Subject: RE: Your message...

Say when.

Scott Roy

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Wednesday, June 06, 2012 05:06 PM Central Standard Time
To: Scott Roy

Cc: Donald Maddox
Subject: Re: Your message...

Scott -- hoping i can catch you for a few minutes tomorrow. Don -- when would be a good time for Scott to call?

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

■ Scott Roy ---05/21/2012 01:50:39 PM---We are definitely game. Please make the introduction with USGS.

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 05/21/2012 01:50 PM
Subject: Your message...

We are definitely game. Please make the introduction with USGS.

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 06/16/2012 07:38 AM
Subject: RE: Gerard and Hopper letters

Thanks Bob. Ready to discuss when you are.

Scott Roy

-----Original Message-----

From: Bob Sussman [Sussman.Bob@epamail.epa.gov]
Sent: Friday, June 15, 2012 05:34 PM Central Standard Time
To: Scott Roy
Subject: Gerard and Hopper letters

Scott -- Enclosed are letters that the Administrator sent to the heads of ANGA and API today. I look forward to discussing further.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

(See attached file: Gerard.061512.pdf)(See attached file: Hopper.061512.pdf)

----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Donald Maddox/DC/USEPA/US
To: "David P. Poole" <dpoole@rangeresources.com>, Shanita Loving/DC/USEPA/US@EPA
Cc: Avi Garbow/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, "Scott Roy" <sroy@rangeresources.com>, "Claudia Kiray" <ckiray@rangeresources.com>
Date: 11/17/2012 09:22 AM
Subject: Re: Dial in for call next Tuesday

We will note the change on our end.

Thanks,

Don

From: "David P. Poole" [dpoole@rangeresources.com]
Sent: 11/17/2012 08:13 AM CST
To: Shanita Loving; Donald Maddox
Cc: Avi Garbow; Bob Sussman; Scott Roy <sroy@rangeresources.com>; Claudia Kiray <ckiray@rangeresources.com>
Subject: RE: Dial in for call next Tuesday

Scot Roy will join me on the call scheduled for next Tuesday so we'll need to use the following dial in number:

888-204-5987
1775847 Access Code-

Thanks.

From: Loving.Shanita@epamail.epa.gov [<mailto:Loving.Shanita@epamail.epa.gov>]
Sent: Friday, November 16, 2012 1:13 PM
To: Maddox.Donald@epamail.epa.gov
Cc: David P. Poole; Garbow.Avi@epamail.epa.gov; Sussman.Bob@epamail.epa.gov
Subject: Re: Discussion today?

Hi Don,

Avi is available on 11/20 9:30- 10:00 am. Thanks

Shanita Loving
Program Specialist
Environmental Protection Agency
Office of General Counsel
Main: (202) 564-8064
Direct: (202) 564-4728
Fax: (202) 501-1438

☐ Donald Maddox---11/16/2012 02:55:52 PM---Mr. Poole - Bob has the following available listed below. I will let Avi chime in on any of these t

From: Donald Maddox/DC/USEPA/US
To: dpoole@rangeresources.com
Cc: Avi Garbow/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA, Shanita Loving/DC/USEPA/US@EPA
Date: 11/16/2012 02:55 PM
Subject: Re: Discussion today?

Mr. Poole - Bob has the following available listed below. I will let Avi chime in on any of these that will work on his schedule.

All times listed in ET

Monday 11-19-12: 9:30 am, 6:00 pm

Tuesday 11-20-12: 9:30 am, 11:00 am, 11:30 am, 12:00 pm

Don Maddox
Office of the Deputy Administrator
U.S. Environmental Protection Agency
email: maddox.donald@epa.gov
Office: 202.564.8443
Direct: 202.564.7207

 Bob Sussman---11/16/2012 02:10:06 PM---Thanks David. Let's see if we can find a time on Monday or Tuesday.
Robert M. Sussman Senior Policy

From: Bob Sussman/DC/USEPA/US
To: "David P. Poole" <dpoole@rangeresources.com>
Cc: Avi Garbow/DC/USEPA/US@EPA, Donald Maddox/DC/USEPA/US@EPA
Date: 11/16/2012 02:10 PM
Subject: Re: Discussion today?

Thanks David. Let's see if we can find a time on Monday or Tuesday.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

 "David P. Poole" ---11/16/2012 11:27:54 AM---Apologies, but I am traveling today with my family for the holiday. I can be available just about a

From: "David P. Poole" <dpoole@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Avi Garbow/DC/USEPA/US@EPA, Donald Maddox/DC/USEPA/US@EPA
Date: 11/16/2012 11:27 AM
Subject: Re: Discussion today?

Apologies, but I am traveling today with my family for the holiday. I can be available just about anytime, however, early next week. I'll be in WY on MST but very flexible and available. I'll look forward to speaking with you and Avi.

From: "Sussman.Bob@epamail.epa.gov<<mailto:Sussman.Bob@epamail.epa.gov>>"
<Sussman.Bob@epamail.epa.gov<<mailto:Sussman.Bob@epamail.epa.gov>>>
Date: Friday, November 16, 2012 9:51 AM
To: David Poole <dpoole@rangeresources.com<<mailto:dpoole@rangeresources.com>>>
Cc: "Garbow.Avi@epamail.epa.gov<<mailto:Garbow.Avi@epamail.epa.gov>>"
<Garbow.Avi@epamail.epa.gov<<mailto:Garbow.Avi@epamail.epa.gov>>>, Maddox Don
<Maddox.Donald@epamail.epa.gov<<mailto:Maddox.Donald@epamail.epa.gov>>>
Subject: Discussion today?

David -- I'd like to chat, along with Avi, about the Pennsylvania prospective case study. We're free at 3:00. might that work on your end? we can also find another time if needed.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Donald Maddox/DC/USEPA/US on 11/03/2014 10:08 AM -----

From: Bob Sussman/DC/USEPA/US
To: Scott Roy <sroy@rangeresources.com>
Cc: Donald Maddox/DC/USEPA/US@EPA
Date: 02/14/2013 08:23 AM
Subject: Re: New E&E Article on Range

Scott. Today's a pretty tough day but I think 10:00-10:30 would work.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

▼ Scott Roy ---02/13/2013 07:58:21 PM---Sorry. Was in a videoconference. Let me know when you have time. Sent from my iPhone

From: Scott Roy <sroy@rangeresources.com>
To: Bob Sussman/DC/USEPA/US@EPA
Date: 02/13/2013 07:58 PM
Subject: Re: New E&E Article on Range

Sorry. Was in a videoconference. Let me know when you have time.

Sent from my iPhone

On Feb 13, 2013, at 4:17 PM,
"Sussman.Bob@epamail.epa.gov<<mailto:Sussman.Bob@epamail.epa.gov>>"
<Sussman.Bob@epamail.epa.gov<<mailto:Sussman.Bob@epamail.epa.gov>>> wrote:

Sure. Am free now for next 30 minutes.

Robert M. Sussman
Senior Policy Counsel to the Administrator

Office of the Administrator
US Environmental Protection Agency

<graycol.gif>Scott Roy ---02/13/2013 04:13:06 PM---Bob, Are you available for a call?

From: Scott Roy <sroy@rangeresources.com<<mailto:sroy@rangeresources.com>>>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: "David P. Poole" <dpoole@rangeresources.com<<mailto:dpoole@rangeresources.com>>>
Date: 02/13/2013 04:13 PM
Subject: RE: New E&E Article on Range

Bob,
Are you available for a call?

From: Sussman.Bob@epamail.epa.gov<<mailto:Sussman.Bob@epamail.epa.gov>>
[<mailto:Sussman.Bob@epamail.epa.gov>]
Sent: Wednesday, February 13, 2013 3:46 PM
To: Scott Roy
Cc: David P. Poole
Subject: Fw: New E&E Article on Range

Am surprised by comments below on prospective case study, given our recent discussions.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency
----- Forwarded by Bob Sussman/DC/USEPA/US on 02/13/2013 12:05 PM -----

From: David Bloomgren/DC/USEPA/US
To: James O'Hara/DC/USEPA/US@EPA, Bob Sussman/DC/USEPA/US@EPA
Cc: Victoria Rivas-Vazquez/DC/USEPA/US@EPA, Robert Delp/DC/USEPA/US@EPA
Date: 02/13/2013 11:35 AM
Subject: New E&E Article on Range

<http://www.eenews.net/energywire/2013/02/13/2>

EPA:
Fracking study helped drive Range case to dismissal

Mike Soraghan, E&E reporter

Published: Wednesday, February 13, 2013

Top U.S. EPA officials were concerned about Range Resources Corp.'s participation in a national hydraulic fracturing study as they prepared to withdraw a high-profile Texas pollution case against the oil and gas company last year, emails obtained by EnergyWire show. They also show that the agency was worried EPA officials could get dragged into court in a related lawsuit.

The emails, released yesterday in response to a Freedom of Information Act request, also show that then-Administrator Lisa Jackson took a close interest in the case. She hosted several meetings on the case and weighed in when it was over.

"I know it has been a hard few weeks, but I think it is the best way forward," Jackson

wrote to Assistant Administrator Cynthia Giles on March 29, the night before the case was dropped.

The EPA officials were concerned enough about the study that they reviewed Range executives' letter about it a day before it was officially sent to EPA. And the talking points they prepared for the day the case was withdrawn specifically cite participation by Range as an advantage of dropping the case.

"Range will also provide useful information and access to EPA in support of EPA's scientific inquiry into the potential impacts of energy extraction on drinking water," the EPA memo states. The study is a broad, multiyear look at how fracturing and drilling affect the safety of drinking water.

But it is not clear what EPA gained. Range spokesman Matt Pitzarella said the company is not part of the study, due to be completed in 2014.

"We are however, and have been, partners with the DOE [Department of Energy] and NETL [National Energy Technology Laboratory] on various studies and testing of BMPs [best management practices]," Pitzarella explained in an email.

The messages, between both political appointees and career staff, provide a glimpse behind the scenes at a crucial point in the Obama administration's handling of the nation's shale boom.

In the weeks before the case was withdrawn, EPA had also agreed to retest groundwater in Pavillion, Wyo., that it had deemed contaminated with hydraulic fracturing fluid and announced that its high-profile intervention in Dimock, Pa., had yielded benign results. The three-pronged retreat was a dramatic turn away from what had been an assertive posture in shale drilling cases.

The Associated Press has reported previously the link between the withdrawal of the case and the national study (EnergyWire<<http://www.eenews.net/energywire/2013/02/12/archive/2>>, Feb. 12). The emails released yesterday offer the first details of EPA officials' concerns and the extent of their interest in gaining Range's participation.

But the emails, heavily redacted in some places, do not offer a clear reason for EPA's legal retreat, which has never been fully explained in public. EPA's Office of Inspector General belatedly confirmed yesterday in an email<http://www.epa.gov/oig/reports/notificationMemos/newStarts_07-17-12_Region_6_Range_Resources.pdf> that it is currently investigating how the agency got into the case and how it got out.

Timeline

Dallas-based EPA Regional Administrator Al Armendariz brought the high-profile Safe Drinking Water Act case in December 2010. In an emergency order, the agency alleged that Range's Barnett Shale gas wells were leaking methane gas into two homes in the Silverado subdivision in Parker County, west of Fort Worth. The order also accused the Texas Railroad Commission, which regulates oil and gas but not trains, of failing to protect the homeowners in the neighborhood.

Range denied the accusations then and denies them now. Company officials also stress that they did not settle the case -- EPA withdrew it.

The Railroad Commission exonerated Range after a January 2011 hearing in which EPA and the homeowners didn't testify.

The first hints of settlement came about two months later, apparently arising out of a discussion between Jackson and former Pennsylvania Gov. Ed Rendell, who was newly out of office. An EPA lawyer wrote that Rendell "proposed certain terms to the Administrator," acting as "a spokesman for Range." Rendell has confirmed he interceded on behalf of Range Resources Corp. but said he didn't go in with a settlement proposal.

(EnergyWire<<http://www.eenews.net/energywire/2013/02/07/archive/2>>, Feb. 7).

Discussions kicked into high gear about a year later, as Jackson prepared to meet with Ignacia Moreno, head of the Environment and Natural Resources Division at the Justice Department, which was in charge of prosecuting the case.

The March 5 meeting drew a reaction when Giles learned of it.

"I am not comfortable with where we are re meeting with DOJ on Monday, and would like to discuss with you tomorrow [morning]," Giles emailed Jackson.

Two days later, Jackson emailed Giles, head of EPA's Office of Enforcement and Compliance Assurance, in the evening.

"Hi. Can I get an update tomorrow morning on Range?" Jackson wrote. Giles responded three minutes later: "Yes -- will set it up."

No details of that March 8 meeting were disclosed. But that day, Giles called Range's attorney, leaving a message "that we want to get this back on track and to make a serious attempt to see if we can resolve the matter quickly." Deputy Assistant Administrator Steven Chester lined up EPA's Office of General Counsel and Department of Justice lawyers to do a call the next day.

It was understood at that point that both cases were going to be dropped.

"Dismissing both matters is implicit," Giles wrote to a colleague.

A swipe at enforcement and 'an additional concern'

The acceleration in the pace of the case came before the March 21, 2012, Supreme Court ruling in the Sackett v. EPA case that took a broad swipe at EPA's enforcement authority. Some have attributed EPA's decision to bail out of the Range case to its loss in the Sackett case.

Another factor in EPA's reasoning appears to have been a lawsuit winding its way through state court and whether EPA officials could get pulled into it. A Texas judge had dismissed landowner Steve Lipsky's case against Range because the Railroad Commission had ruled the company wasn't at fault. But Range's defamation and conspiracy counterclaim against Lipsky was going forward.

Bernadette Rappold, director of EPA's Special Litigation and Projects Division, indicated to colleagues that EPA employees could get dragged into the case. In an email titled "an additional concern," she explained that EPA could become a key part of the case.

"Range's conspiracy claims expressly reference EPA," she wrote, including Armendariz and two other EPA staffers.

"I understand that Range started this week on the process for trying to get depositions of three EPA Region 6 employees," Rappold wrote on March 16.

But the national study into hydraulic fracturing loomed large for the headquarters team figuring out what to do with the Range case.

The study was urged on EPA by members of the House Appropriations Committee when the chamber was controlled by Democrats. It has been contentious from the start, as drilling critics packed hearing halls for the "scoping" process, environmental groups and industry lobbied to get their favored scientists on the peer review panel and the agency tangled with Halliburton Co. about what information the company should hand over.

In a March 14 memo marked "CONFIDENTIAL," Rappold laid out Range's actions regarding the national study. The memo noted that Range had "denied access" to sites in Pennsylvania, while adding that "it continues to provide access to USGS [U.S. Geological Survey] and

DOE."

EPA senior policy counsel Bob Sussman noted in emails that officials from the EPA research branch conducting the fracturing study would be joining a conference call about the case.

Studies with Range

Range is one of the major drillers in Pennsylvania, but nothing in the emails released yesterday explains why the participation of Range, one of many shale drilling companies, was important to the study.

Pitzarella said that Range wasn't going to work with an agency that was pursuing it in court.

"Our prior refusal to voluntarily participate in the [hydraulic fracturing] study was the same as it would be with anyone that we were locked in a legal dispute with," Pitzarella said. "If we were in a suit with a contractor over something we strongly disagreed with, we would suspend other work with that contractor if we could. That was our approach with the EPA as well."

At the time the case was withdrawn, it looked like Range would participate. On April 4, 2012, several days after the case was dropped, Range CEO Jeff Ventura and Executive Chairman John Pinkerton signed a letter<<http://www.rangeresources.com/rangeresources/files/0e/0e09af4c-5f65-473e-a406-402185270ac1.pdf>> to EPA that is still posted to the company's website.

"We are pleased that, with the matter of the emergency order resolved, Range is now able to cooperate with the agency in providing access to study sites as part of the EPA's hydraulic fracturing study," they wrote.

The night before, Giles, Sussman and EPA Deputy Administrator Bob Perciasepe were on an email thread examining a draft of the executives' letter.

"Let's discuss comments on the draft letter," Giles wrote, above a slightly different version of the sentence about the study. "What do you think?"

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